

## Chapter 5-3 Offenses Against the Person

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Adopted by Ordinance No. 4611.

### 5-3-1 Assault in the Third Degree.

No person shall recklessly cause bodily injury to another. This section does not apply where there is serious bodily injury, a deadly weapon is used, or the assault is otherwise felonious.

### 5-3-2 Brawling.

No person shall fight with another in a public place except in a prearranged amateur or professional contest of athletic skills.

### 5-3-3 Physical Harassment.

No person shall, with intent to harass or annoy another, strike, shove, kick, or otherwise touch or subject an individual to physical contact.

### 5-3-4 Threatening Bodily Injury.

No person shall knowingly, by threat or physical action, place another in fear of imminent bodily injury. This section does not apply if the threat or physical action is committed by the use of a deadly weapon or if the threat is made with the intent to induce the threatened person or another person to do an act or refrain from doing a lawful act against such individual's will.

### 5-3-5 Obstructing Public Streets, Places, or Buildings.

(a) No person without legal privilege shall knowingly obstruct vehicular or pedestrian movement in a public place.

(b) For the purpose of this section "obstruct" means to interfere with or prevent, whether alone or with others, convenient or reasonable passage or use. For purposes of this section concerning a public walk, sidewalk, or building, "convenient" means providing enough passageway to permit passage of a thirty-six-inch-wide wheelchair at an average unobstructed pedestrian speed. "Reasonable 4" includes permitting passage of a pedestrian without pause or detour, and evidence that a pedestrian had to alter substantially the pedestrian's direction of travel in order to accommodate a person sitting or lying in the pedestrian's way shall be prima facie evidence of obstruction.

(c) For the purpose of this section "public place" means in or upon any public highway, street, alley, walk, parking lot, building, park, or other public property, or in or upon those portions of any private property upon which the public has an express or implied license to enter or remain.

(d) For the purpose of this section "legal privilege" includes, without limitation, awaiting public transportation in areas designated therefore and acting in accordance with a license or permit used by the city for construction or other work in, over, on, or under, the public way or place.

(e) No person shall be deemed to have violated this section solely because of a gathering of persons for the purpose of hearing such person speak or solely because of being a member of such a gathering. Such person commits a violation by refusing to obey a reasonable request or order by a police officer to move:

(1) To prevent obstruction of a public street, alley, sidewalk, public way, place, or building, or entrance or doorway into or out of a building open to the public, if compliance with that order at the same time permits the gathering to continue to satisfy its communicative purpose; or

(2) To maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard.

(f) The provisions of Subsection 5-3-5(a), B.R.C. 1981, do not apply to persons on the sidewalk along the route of a parade permitted under Section 7-2-14, "Permit Required for Parades, Processions, and Sound Trucks," B.R.C. 1981; but any such person who fails to move when requested to do so by a police officer making a lane available for pedestrians commits a violation of this section.

Ordinance No. 5955 (1997).

### 5-3-6 Use of Fighting Words.

No person shall insult, taunt, or challenge another in a manner likely to provoke a disorderly response. If the person to whom such insult, taunt, or challenge is directed is a police officer, there is no violation of this section until the police officer requests the person to cease and discontinue the conduct, but the person repeats or continues the conduct<sup>1</sup>.

<sup>1</sup>Van Meveren v. County Court, 551 P. 2d 716 (1976).

### 5-3-7 Aggressive Begging Prohibited.

(a) No person shall beg or solicit aggressively for a gift of money or any thing of value on any public street, sidewalk, way, mall, park, building, or other public property, or on any private property open to the public while in close proximity to the individual addressed. "Aggressive begging" means begging or soliciting accompanied by or followed immediately by one or more of the following:

- (1) Repeated requests after a refusal by the individual addressed;
- (2) Blocking the passage of the individual addressed;
- (3) Addressing fighting words to the individual addressed; or
- (4) Touching the individual addressed.

(b) If one person acts in concert with another to beg aggressively, such that one person begs or solicits, and another commits one or more of the additional acts constituting aggressive begging, both have committed the crime.

(c) If one person begs or solicits, and a second person, who knew or reasonably should have known of a refusal by the individual addressed, begs or solicits from the same individual within one minute, the second person has committed the crime.

Ordinance Nos. 5955 (1997); 7259 (2003).

### 5-3-8 Disrupting Quiet Enjoyment of Home.

Repealed.

Ordinance Nos. 5271 (1990); 5309 (1990); 7151 (2001); 7358 (2004).

### 5-3-9 Brandishing a Weapon<sup>1</sup>.

No person not a police officer, or a peace officer of any state of the United States and acting in such capacity, shall display a deadly weapon in a public place in a manner calculated to alarm. It is an affirmative defense to a charge of violating this section that the display constituted legitimate self defense under state law.

<sup>1</sup>See People v. Howard, 622 P.2d 568 (1981).

### 5-3-10 Harassment Near Health Care Facility.

(a) No person shall knowingly obstruct, detain, hinder, impede, or block another person's entry to or exit from a health care facility.

(b) No person shall knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of one hundred feet from any entrance door to a health care facility.

(c) For the purposes of this section, "health care facility" means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment.

Ordinance Nos. 4982 (1986); 5037 (1987); 7129 (2001).

### 5-3-11 Nuisance Party Prohibited.

(a) No owner, occupant, tenant, or other person having possessory control, individually or jointly with others, of any

premises shall sponsor, conduct, host, or permit a social gathering or party on the premises which is or becomes a public nuisance where such nuisance is either the intentional result of, or reasonably anticipated by, the person or persons having such possessory control. Reasonable anticipation shall be adjudicated using a reasonable person standard.

(b) A social gathering shall be deemed to constitute a public nuisance when, by reason of the conduct of persons in attendance, it results in one or more of the following violations of this code and which violations occur at the site of the social gathering, or on neighboring public or private property:

Section 5-3-1, "Assault in the Third Degree," B.R.C. 1981;

Section 5-3-2, "Brawling," B.R.C. 1981;

Section 5-3-4, "Threatening Bodily Injury," B.R.C. 1981;

Section 5-3-5, "Obstructing Public Streets, Places, or Buildings," B.R.C. 1981;

Section 5-3-6, "Use of Fighting Words," B.R.C. 1981;

Section 5-4-1, "Damaging Property of Another," B.R.C. 1981;

Section 5-4-2, "Damaging Public Property," B.R.C. 1981;

Section 5-4-3, "Trespass," B.R.C. 1981;

Section 5-4-10, "Fires on Public Property," B.R.C. 1981;

Section 5-4-13, "Littering," B.R.C. 1981;

Section 5-4-14, "Graffiti Prohibited," B.R.C. 1981;

Section 5-5-3, "Obstructing a Peace Officer or Fire Fighter," B.R.C. 1981;

Section 5-5-10, "False Reports," B.R.C. 1981;

Section 5-6-6, "Fireworks," B.R.C. 1981;

Section 5-6-7, "Public Urination," B.R.C. 1981;

Section 5-7-2, "Possession and Consumption of Alcoholic Beverages in Public Prohibited," B.R.C. 1981;

Section 5-7-3, "Unlawful to Sell or Give to or Procure for Minors," B.R.C. 1981;

Section 5-7-4, "Possession and Sale by Minors Unlawful," B.R.C. 1981;

Section 5-9-3, "Excessive Sound Levels," B.R.C. 1981;

Chapter 5-9, "Noise," B.R.C. 1981;

A violation of any provision in Chapter 6-3, "Trash," B.R.C. 1981, relating to the unlawful deposit of trash;

Section 7-4-61, "Obstructing Traffic Prohibited," B.R.C. 1981;

Paragraph 10-8-2(b)(12), B.R.C. 1981, concerning open burning.

(c) A social gathering shall be deemed to constitute a public nuisance when an open keg of beer is located in any yard adjacent to a street, on a front porch in a place visible to the public, or in any side yard of the premises upon which the social gathering takes place such that the open keg of beer is visible to members of the public standing on public streets, sidewalks, or on the grounds of other adjoining or nearby private properties.

(d) All participants in any party or social gathering declared to be a public nuisance by a police officer shall cease participating in that party or social gathering and disperse immediately upon the order of a police officer, and all persons not domiciled at the site of such party or social gathering shall leave the premises immediately. No person shall fail or refuse to obey and abide by such an order.

Ordinance No. 7126 (2001).

### 5-3-12 Begging in Certain Places Prohibited.

(a) No person shall beg or solicit for a gift of money or any thing of value while the person begging or soliciting is in any of the following places on public property:

(1) On the mall within ten feet of a building wallfn.

(2) In the downtown or the University Hill commercial district, as those areas are defined in subsection (b) of this section, within five feet of a building wall.

(3) Within ten feet of any outdoor patio where food or drink are served.

(4) Within ten feet of any vending cart operating pursuant to a permit from the city.

(b) This section applies only to the following parts of the city:

(1) The downtown, defined as the area included within the Downtown Boulder Business Improvement District established by Ordinance No. 6095. A map showing the downtown boundaries is Appendix A to this section.

(2) The University Hill commercial district, defined as the west side of Broadway from University Avenue to College Avenue; Pennsylvania Avenue from Broadway to the alley west of Thirteenth Street and also including the right-of-way abutting the property on the north side of Pennsylvania just west of the alley; Thirteenth Street from Pleasant Street to College Avenue including the right-of-way abutting the two northern most properties south of College on the east and west sides of Thirteenth Street; Fourteenth Street south of College on the west side from College to the southern edge of the University Hill General Improvement District parking lot; and College Avenue from the alley west of Thirteenth Street to Fourteenth Street. A map showing the University Hill commercial district is Appendix B to this section.

(c) This section does not apply to begging or solicitation solely by means of a sign carried by the person, so long as the sign is not extended within eighteen inches of the person solicited.

fnThere is a line in the decorative brick surface of the mall which is located ten feet into the mall on both the north and south sides of the mall.

[Back to Title 5 Menu](#)APPENDIX A